<div align="center">**REMARKS**</div>

1. **STATUS OF THE CLAIMS**

Claims 1-24 of this application are pending.

Claims 1-24 are rejected.

Claims 1 and 9-17 have been amended. Support for these amendments can be found throughout the specification, claims, and drawings as originally filed.

2. **REJECTION OF CLAIMS 9-16 UNDER 35 U.S.C. § 101**

The Examiner in the Office Action rejected independent claim 9 and any other claims rejected by virtue of their dependency under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Applicants have amended independent claim 9 and dependent claims 10-16, and respectfully traverse the §101 rejection as to claims 9-16.

The subject matter of the claimed invention must come within the boundaries set forth by 35 U.S.C. § 101, which permits patents to be granted only for any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof. MPEP § 706.03(a). Further, dependent claims include all the limitations of the claims from which they depend. MPEP § 608.01(n).

The Examiner in the Office Action stated that a processor-readable medium having processor-executable instructions, as recited in amended independent claim 9, is interpreted as being not limited to computer-readable storage media, and is being intended to include not only storage media, but also communication media that includes a carrier wave/signals that "bear" instructions. The Examiner in the Office Action further stated that such embodiments of the "manufacture" claim 9 is not computer elements, which define structural and functional interrelationships between the instructions and the rest of the computer that permit the functionality of the instructions to be realized, and that claim 9 is directed to a non-statutory subject matter as not tangible and concrete,

and it would not be eligible for patentability because it would be eligible for patentability if a practical application was present that produced a useful, concrete, and tangible result upon execution of the instructions.

Amended independent claim 9 has been amended to include the limitation of a "controller configured to operate with a" processor-readable medium having processor-executable instructions. Amended dependent claims 10-16 have been amended to include the limitation of the "controller." Applicants respectfully submit that the microcontroller, as claimed in amended claims 9-16, is a new and useful machine, manufacture, or any new and useful improvement thereof, and is tangible, concrete, and eligible for patentability. Thus, Applicants respectfully request withdrawal of the §101 rejection as to amended claims 9-16.

3. REJECTION OF CLAIMS 1-24 UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

The Examiner in the Office Action rejected claims 1-24 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants have amended independent claims 1, 9, and 17, and respectfully traverse the §112, second paragraph rejection as to claims 1-24.

If the corresponding structure, material, or acts are described in the specification in specific terms, and one skilled in the art could identify the structure, material, or acts in the description, then the requirements of 35 U.S.C. § 112, second paragraph, is satisfied. MPEP § 2181. Further, dependent claims include all the limitations of the claims with which they depend. MPEP § 608.01(n).

The Examiner in the Office Action stated that independent claims 1, 9, and 17 are indefinite because the claim language (a) "currently transmitted data" recited at the second limitation, and (b) "the timing information received by the decryption subsystem" recited at the third limitation are considered to be unclear in its meaning, and therefore, it is not clear what the Applicants are exactly referring to.

In regards to the Examiner's comment in (a), Applicants respectfully submit that the "currently transmitted data" is not transmitted by the communication device, as suggested and interpreted by the Examiner, but instead, the "currently transmitted data" should be interpreted with respect to being received by a decryption subsystem, as set forth in amended independent claims 1, 9, and 17. Amended independent claims 1, 19, and 17 set forth the decryption subsystem receiving one of the buffered timing information and current timing information associated with currently transmitted data, which is further described in *inter alia* paragraphs [0027]-[0031].

In regards to the Examiner's comment in (b), Applicants have amended independent claims 1, 9, and 17 to include the limitation of "a latest timing information." Applicants respectfully maintain that amended independent claims 1, 9, and 17 set forth a decryption subsystem that receives one of the buffered timing information and the current timing information, and decrypts the buffered data only when the buffered timing information is not earlier than the latest timing information. Thus, the decryption subsystem compares the buffered timing information with the latest timing information received by the decryption subsystem, which is further described in *inter alia* paragraphs [0027]-[0031].

Applicants respectfully submit that one skilled in the art could identify the structure, material, or acts from the claims in the supporting description, and Applicants have particularly pointed out and distinctly claimed the subject matter which Applicants regard as the invention in amended independent claims 1, 9, and 17. Thus, Applicants respectfully request withdrawal of the §112, second paragraph rejection as to amended independent claims 1, 9, and 17.

Likewise, dependent claims 2-8, 10-16, and 18-24 are directly or ultimately dependent upon amended independent claims 1, 9, and 17, respectively, and include all the limitations thereof. As set forth above, Applicants respectfully maintain that amended independent claims 1, 9, and 17 particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Thus, Applicants respectfully

submit that dependent claims 2-8, 10-16, and 18-24 particularly point out and are definite, and respectfully request withdrawal of the §112, second paragraph rejection as to dependent claims 2-8, 10-16, and 18-24.

4. REJECTION OF CLAIMS 1, 4-9, 12-17, AND 20-24 UNDER 35 U.S.C. § 102(b)

The Examiner in the Office Action rejected claims 1, 4-9, 12-17, and 20-24 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,892,535 issued to Allen et al. (hereinafter "Allen"). Applicants respectfully traverse the §102(b) rejection as to claims 1, 4-9, 12-17, and 20-24.

In order for a prior art reference to anticipate the claimed invention, the prior art reference must disclose each and every element of the claimed invention. MPEP § 2131. Further, dependent claims include all the limitations of the claims with which they depend. MPEP § 608.01(n).

Applicants' claimed invention sets forth in amended independent claims 1, 9, and 17 receiving one of the buffered timing information and current timing information associated with currently transmitted data in a decryption subsystem, and using the decryption subsystem to decrypt the buffered data only when the buffered timing information is not earlier than a latest timing information received by the decryption subsystem. Applicants respectfully submit that the claimed invention, including these limitations, is not disclosed by Allen.

The Examiner in the Office Action stated that Allen teaches a method to time-shift data in a communication device comprising buffering the data and timing information using a memory arrangement (col. 5, lines 40-43; col. 11, lines 27-32; col. 49, lines 55-56; and col. 28, lines 29-38), and receiving one of the buffered timing information and current timing information associated with currently transmitted data in a decryption subsystem (col. 48, lines 24-29; col. 25, lines 1-8; col. 11, lines 27-32; col. 49, lines 55-56; and col. 28, lines 29-38). The Examiner in the Office Action further stated that Allen discloses using the decryption subsystem to decrypt the buffered data

(col. 48, lines 24-29) only when the buffered timing information is not earlier than the timing information received by the decryption subsystem (col. 25, lines 1-8; col. 28, lines 29-38; col. 11, lines 27-32; and col. 49, lines 55-56). Applicants respectfully submit that Allen discloses presentation time stamps (PTSs) being placed in the video and audio stream and program clock regenerators (PCRs) being placed in the transport stream to regenerate the clock signal (col. 28, lines 13-38). Applicants respectfully submit that Allen further discloses a decoder that compares the PTS and the PCR to synchronize or reconstruct the video frame in the corresponding audio signal to be emitted in synchronism from the decoder (col. 28, lines 34-37).

By contrast, Applicants' claimed invention in amended independent claims 1, 9, and 17 set forth the decryption subsystem receiving one of the buffered timing information and the current timing information, and decrypting the buffered data only when the buffered timing information is not earlier than the latest timing information. Thus, the claimed invention only receives one of the buffered timing information and current timing information at a time, whereas Allen discloses the PTSs and PCRs being received simultaneously in order to synchronize the video and audio streams. Further, the claimed invention decrypts the buffered data only when the buffered timing information is not earlier than the latest timing information, whereas Allen discloses comparing the PTSs and PCRs to synchronize the video and audio streams, which have been decoded (col. 28, lines 13-37). Therefore, Applicants respectfully submit that Allen does not disclose each and every element of amended independent claims 1, 9, and 17, and respectfully request withdrawal of the §102(b) rejection as to amended independent claims 1, 9, and 17.

Likewise, dependent claims 4-8, 12-16, and 20-24 are directly or ultimately dependent upon amended one of independent claims 1, 9, and 17, respectively, and include all the limitations thereof. As set forth above, Applicants respectfully maintain that Allen does not disclose each and every element of amended independent claims 1, 9, and 17. Therefore, Applicants respectfully submit that dependent

claims 4-8, 12-16, and 20-24 are not anticipated by Allen, and respectfully request withdrawal of the §102(b) rejection as to dependent claims 4-8, 12-16, and 20-24.

In further regards to dependent claims 5, 13, and 21, these claims set forth transmitting the buffered data to another communication device using a wireless communication protocol. The Examiner in the Office Action stated that Allen discloses transmitting the buffered data to another communication device using a wireless communication protocol (col. 1, lines 34-35). Applicants respectfully submit that Allen discloses a satellite link used to provide various programming over distinct channels or other dedicated long-haul communication paths in a traditional cable distribution system (col. 1, lines 31-39). Applicants further respectfully submit that the satellite link disclosed in Allen differs from the claimed invention, which buffers or stores the data in one device, and uses a wireless communication protocol to transmit the buffered data to store and/or use the buffered data in the other communication device. Therefore, Applicants respectfully submit that dependent claims 5, 13, and 21 are not anticipated by Allen, and respectfully requests withdrawal of the §102(b) rejection as to dependent claims 5, 13, and 21 for these additional reasons.

By way of the foregoing discussion, Applicants have demonstrated that claims 1, 4-9, 12-17, and 20-24 are not anticipated by Allen, and the rejection of the claims under 35 U.S.C. § 102(b) should therefore be withdrawn, which action is respectfully requested. Additionally, Applicants further respectfully submit that claims 1, 4-9, 12-17, and 20-24 would not have been rendered obvious by Allen.

5. REJECTION OF CLAIMS 2-3, 10-11, AND 18-19 UNDER 35 U.S.C. § 103(a)

The Examiner in the Office Action rejected dependent claims 2-3, 10-11, and 18-19 under 35 U.S.C. § 103(a) as being unpatentable over Allen in view of U.S. Patent Application Publication No. 2004/0089141 filed by Georges et al. (hereinafter "Georges"). Applicants respectfully traverse the §103(a) rejection as to dependent claims 2-3, 10-11, and 18-19.

The standard for obviousness requires that the prior art references must teach or suggest all the claim limitations. MPEP § 2143. Further, dependent claims include all the limitations of the claims with which they depend. MPEP § 608.01(n).

The Examiner in the Office Action stated that Georges teaches buffering the data and timing information using a removable memory device (paragraph [0307]), and that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Georges with the system of Allen because Georges teaches a music replay system and the microprocessor extracts the timing information from an input data stream and a flash memory can be used as a buffer memory between it and the microprocessor database (paragraphs [0100] and [0307]). The Examiner also stated in the Office Action that Allen, as modified, teaches the removable memory device comprising a flash memory device (paragraph [0307]).

As set forth above, Applicants respectfully maintain that Allen does not teach or suggest to one having ordinary skill in the art to arrive at a decryption subsystem that receives one of the buffered timing information and the current timing information, and decrypts the buffered data only when the buffered timing information is not earlier than the latest timing information, as set forth in amended independent claims 1, 9, and 17, since Allen teaches PTSs being put into the video and audio stream and PCRs being put into the transport stream in order to regenerate the clock cycle, where the PTSs and PCRs appear to synchronize the video and audio streams. Thus, Applicants respectfully maintain that Allen does not teach or suggest to one having ordinary skill in the art to arrive at all the claim limitations of amended independent claims 1, 9, and 17. Therefore, Applicants respectfully submit that Allen in view of Georges would not have rendered dependent claims 2-3, 10-11, and 18-19 obvious, and respectfully request withdrawal of the §103(a) rejection as to dependent claims 2-3, 10-11, and 18-19.

Further, Applicants respectfully note, and without making any admissions as to Georges being prior art, that Georges was filed on January 7, 2003, and is a

continuation-in-part of the parent application, which was filed on November 12, 2002. Applicants respectfully reserve the right to antedate the reference.

CONCLUSION

For all of the foregoing reasons, Applicants respectfully submit that claims 1-24, as amended, are in condition for allowance, which action is respectfully requested. If the Examiner has any questions or comments with respect to this Amendment and Reply, the Examiner is encouraged to contact the undersigned at 616,949,9610.

Respectfully submitted,

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Date

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